

**STATEMENT OF COMMISSIONER MICHAEL J. COPPS
ON RADIO TRANSFER APPLICATIONS**

*In the Matter of Golden Triangle Radio, Inc., Charisma Broadcasting Co.,
Bravo Communications, Inc., Radio Columbus and Cumulus Licensing Corp.
(Columbus, MS)*

*In the Matter of Solar Broadcasting Company,
Cumulus Licensing Corp. and Clear Channel Broadcasting Licenses Inc.
(Columbus, GA)*

*In the Matter of Great Scott Broadcasting and Nassau Broadcasting
(Trenton, NJ)*

*In the Matter of Air Virginia, Inc. and Clear Channel Radio Licenses, Inc.
(Charlottesville, VA)*

*In the Matter of Gowdy FM 95 and Gowdy Family LP and Clear Channel Broadcasting Licenses, Inc.
(Laramie, WY)*

I have struggled to find the public interest in the grant of these transfers. Given the levels of market concentration – both of advertising and audience share – that will result from these transactions, I can support the grant of only one of the five transfers at issue here. That one transaction arises in a unique geographic circumstance, in which the potential harm to competition was not significant and was outweighed by the benefits of the transaction. In the other four cases, however, I find evidence of significant anticompetitive effects. I could not support grant of these transfers absent additional information on the public interest benefits. I support the decision of the Commission to send one of these five transfers to hearing, and would have sent another three to hearing as well.

I am troubled by the trend toward greater and greater consolidation of the media as exemplified by these transactions. I am further troubled by the Commission's acceptance of these levels of concentration in radio, particularly in the smaller radio markets at issue here. The five transactions before us here would each result in levels of concentration that are greater than that approved by the Commission in the past, and are potentially harmful to competition. Given the small markets at issue here, the effects of extreme concentration are that much more pernicious.

Each transaction presents slightly different issues regarding the acceptable levels of concentration in a market, the definition of a local radio market, or the attribution of local marketing agreements for the purposes of competitive analysis. The one transaction I am able to support, albeit hesitantly, involves the transfer of the Gowdy stations in Laramie, Wyoming to Clear Channel Broadcasting, Inc. While I am tremendously concerned about the unprecedented levels of market domination Clear Channel has achieved in radio markets throughout the country – including in Cheyenne, Wyoming – the transaction before the Commission does not appear to increase Clear Channel's dominance in this market. Due to the unique topography of the area, the Laramie stations deliver marginal signals into Cheyenne. This geographic anomaly permits

the substitution of separate geographic markets for Cheyenne and Laramie, in lieu of the presumptive Arbitron market definition, thus I support the transfer of these licenses from the Gowdy licensees to Clear Channel.

Speaking generally, however, these transactions, taken together with the dozens of transactions approved by the Bureau last year, result in the Commission's adoption of an unacceptable standard for concentration in local radio markets. The amount of concentration in the markets at issue here is potentially very harmful to competition, to the listening public and to America's deeply held values of localism and diversity.

As I have often stated, Congress directed us to look to the public interest as we review transactions. Congress told the Commission that it may grant a broadcast license transfer only if "the public interest, convenience and necessity will be served thereby."¹ Competition is, and always has been, an essential part of the public interest, and I believe that a competitive analysis is an important part of the public interest in a particular transaction.²

I don't think that my faith in competition is particularly radical. In fact, it is a cardinal principle underlying the 1996 Act. In these relatively small radio markets, the anticompetitive effects of such high levels of concentration are likely to be especially pronounced. When one or two owners wield this much power in a particular market, they can make it impossible for independent stations to survive or even compete.

When it comes to transfers of broadcast licenses, our analysis must go beyond competitive analysis, to the effects of the transfer on factors unique to broadcasting – localism and diversity. This is consistent with Commission precedent, in which we have found that we have "an independent obligation to consider whether...radio ownership that complies with the local ownership limits would otherwise have an adverse competitive effect in a particular radio market and thus, would be inconsistent with the public interest."³

Neither is this a radical position. As a market-based democratic society, we value independent voices in the media. For a robust marketplace of ideas to survive, *each community* must have a diversity of sources of information available to its members – not just a *variety* of formats, but *diversity* of formats and of ownership. As consolidation of market power makes it harder and harder for independent stations to compete, local markets lose the diversity so

¹ 47 U.S.C. § 310(d).

² See, e.g., *FCC v RCA Communications, Inc.*, 346 U.S. 86, 94 (1953) ("There can be no doubt that competition is a relevant factor in weighing the public interest."); *Mansfield Journal Co. v. FCC*, 180 F.2d 28, 33 (D.C. Cir. 1950) ("Monopoly in the mass communications of news and advertising is contrary to the public interest, even if not in terms proscribed by the antitrust laws."); *Rogers Radio Communications Services, Inc. v. FCC*, 593 F.2d 1225, 1230 (D.C. Cir. 1978) (The "effect on competition [is] clearly a proper factor for the Commission to consider under the public interest, convenience and necessity standard. . .").

³ *CHET-5 Broadcasting L.P.*, 14 FCC Rcd 13041, 13043 (1999).

essential to the free exchange of ideas in their community.

No single factor necessarily defines whether a particular transaction is in the public interest. Nevertheless, when harm to competition is likely to result from the grant of an application, it behooves the Commission to assure itself with as much certainty as is possible, that despite the harm to competition, each transaction will nonetheless serve the public interest, convenience and necessity. In order to make this determination where such high concentration levels will result, without clear evidence of strong public interest benefits, as in four of the cases before us today and discussed below, I am convinced that we must further examine the issues at a hearing.